

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JAMES BROWN,

Petitioner,

v.

9:07-CV-1139

**JAMES CONWAY, Superintendent,
Attica Correctional Facility,**

Respondent.

APPEARANCES:

OF COUNSEL:

JAMES BROWN
03-B-2603
Shawangunk Correctional Facility
P.O. Box 700
Wallkill, NY 12589
Petitioner, *pro se*

HON. ANDREW M. CUOMO
Office of the Attorney General
State of New York
Department of Law
The Capitol
Albany, NY 12224

ALYSON J. GILL, ESQ.
LEILANI RODRIGUEZ, ESQ.

NORMAN A. MORDUE, CHIEF U. S. DISTRICT JUDGE

ORDER

The above matter comes to me following a Report-Recommendation by Magistrate Judge David E. Peebles, duly filed on the 28th day of April 2010. Following ten days from the service thereof, the Clerk has sent me the file, including any and all objections filed by the parties herein.

After careful review of all of the papers herein, including the Magistrate Judge's Report-Recommendation, and no objections submitted thereto, it is

ORDERED that:

1. The Report-Recommendation is hereby adopted in its entirety.
2. The petition is dismissed as untimely. Accordingly, a certificate of appealability shall not issue with respect to the claims set forth in the petition.
4. The Clerk of the Court shall serve a copy of this Order upon all parties and the Magistrate Judge assigned to this case.

IT IS SO ORDERED.

Dated: June 22, 2010
Syracuse, New York


Norman A. Mordue
Chief United States District Court Judge